

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 96-137-W/S - ORDER NO. 1999-191

MARCH 16, 1999

IN RE: Application of Tega Cay Water)
 Service, Inc. for Approval of)
 an Increase in Rates and Charges)
 for Water and Sewer Service.) ORDER ON REMAND *VWR*

This matter is before the Public Service Commission of South Carolina (the “Commission”) pursuant to the Order of the Honorable James R. Barber, III, dated September 25, 1998, (“Order”), which reversed Commission Order Nos. 96-879 and 97-126 in part and remanded the case with instructions “to set rates that allow TCWS [Tega Cay Water Service, Inc.] the opportunity to earn a fair and reasonable rate of return in accordance with the applicable constitutional and statutory standards ... and with the substantial evidence of record.” Order, p. 9. In setting these rates, the Commission was also directed not to rely on the following improper considerations: unsubstantiated customer complaints regarding the quality of service provided by TCWS; comparisons of TCWS’s rates with those of other regulated utilities; and a proposed management audit of TCWS’s parent company.

Based upon the directives’ of the Circuit Court as contained in Judge Barber’s Order and the evidence of record, the Commission finds that a reasonable operating margin that TCWS should have the opportunity to earn is 12.72%. As noted in Judge Barber’s Order, the only testimony before the Commission as to a reasonable rate of return for the company was that of TCWS’s financial witness, Patricia Cuddie, who testified that a fair and reasonable operating

margin for TCWS is 12.72% and a reasonable return on rate base is 9.62%. Order at 2, 6. In addition, no other evidence of a reasonable operating margin or rate of return was presented. Id. at 2.

TCWS witness Cuddie, a Certified Public Accountant, has been employed by Utilities, Inc. since 1990. During that time she has been involved in rate cases in several jurisdictions and testified before the Commissions in South Carolina, North Carolina, Florida, and Illinois. Her previous employment experience includes approximately two years of public accounting and six years of regional and corporate finance. She testified that a reasonable rate of return on TCWS's investment is a 9.62% rate of return on rate base and an operating margin of 12.72%. No other testimony of a reasonable rate of return was presented to the Commission.

By statute, the Commission's determination of a fair rate of return must be documented fully in its findings of fact and must be based exclusively on reliable, probative, and substantial evidence on the whole record. S.C. Code Ann. § 58-5-240 (H)(Supp. 1998). The South Carolina Supreme Court has recently held that, before the Commission may adopt a rate of return that has not been recommended by any of the expert witnesses, a reasonable explanation for such a conclusion must be given. Porter v. South Carolina Pub. Serv. Comm'n, __ S.C. __, 504 S.E.2d 320 (1998); Porter v. South Carolina Pub. Serv. Comm'n, Op. No. 24847 (S.C. Sup. Ct. filed October 26, 1998). Because the only testimony before the Commission was that a reasonable operating margin for TCWS is 12.72% and as the Commission's prior explanations for setting a lower operating margin were determined by Judge Barber to be improper, the Commission finds that 12.72% constitutes a reasonable operating margin.

Based upon a fair and reasonable operating margin of 12.72%, TCWS is entitled to an increase in its rates and charges for water and sewer operations. The Commission finds that rates and charges depicted in Appendix A, attached hereto and incorporated herein by reference, should be sufficient to allow TCWS an opportunity to earn a 12.72% operating margin. Under the directives from the Circuit Court as contained in Judge Barber's Order, the Commission finds that these rates and charges, as contained in Appendix A, are just and reasonable.

Pursuant to S.C. Code Ann. §58-5-240(D)(Supp. 1997), TCWS has placed into effect under bond the full rate increase requested in this docket. In Order No. 97-643, dated July 30, 1997, the Commission approved a surety bond proposed by TCWS for that purpose. The effect of this Order on Remand will be to approve a rate increase less than that requested by TCWS and placed under bond. Accordingly, upon this Order on Remand becoming final, it will be necessary that TCWS refund the difference between the rates placed into effect under bond and the rates determined to be just and reasonable by this Order on Remand. Further, as provided by S.C. Code Ann. §58-5-240(D)(Supp. 1998), refunds shall bear interest at the rate of twelve percent (12%) per annum. Upon making these refunds, TCWS shall provide to the Commission Staff records or other evidence of payments made by TCWS customers of the rates paid under bonds as required by S.C. Code Ann. §58-5-240(D)(Supp. 1998) as well as evidence or records regarding the refunds so that Staff may verify the refunds.

IT IS THEREFORE ORDERED THAT:

1. The schedule of rates and charges attached hereto as Appendix A is hereby approved for TCWS.

2. Upon this Order on Remand becoming final, any amounts collected by TCWS under bond that exceed the rates and charges in Appendix A shall be refunded with interest at the rate of twelve percent (12%) per annum. As provided by S.C. Code Ann. §58-5-240(D)(Supp. 1998), interest shall commence on the date the disallowed increase is paid and continue until the date the refund is made.

3. TCWS shall provide documentation of the refunds to the Commission Staff. Said documentation shall include records or other evidence of payments made by its customers of the rates under bond, as required by S.C. Code Ann. §58-5-240 (Supp. 1998), and the records of refunds paid by TCWS. The Commission Staff will verify that refunds are made in accordance with S.C. Code Ann. §58-5-240(D) (Supp. 1998) and with this Order on Remand.

4. This Order on Remand shall remain in full force and effect until further Order of this Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

APPENDIX A

TEGA CAY WATER SERVICE, INC.
5701 WEST PARK DR.
SUITE 101
PO BOX 240705
CHARLOTTE, NC 28224-0705
PHONE NO. 704-525-7990

DOCKET NO. 96-137-W/S - ORDER NO. 1999-191

SCHEDULE OF RATES AND CHARGES

EFFECTIVE DATE March 16, 1999

I. WATER

1. CHARGE FOR WATER DISTRIBUTION ONLY

Where water is purchased from a government body or agency or other entity for distribution by the Company, the following rates apply:

- a. Basic Facility Charge \$7.50 per single - family equivalent unit

PLUS

- b. Commodity Charge: \$1.69 per 1,000 gallons
(Usage)

The Utility will also charge for the cost of water supplied by the government body or agency, or other entity. The charges imposed or charged by the government body or agency, or other entity providing water will be charged to the Utility's affected customers on a pro rata basis without markup.

- c. The basic facility charge is a minimum charge per unit and shall apply even if the equivalency rating is less than one (1). If the equivalency rating is greater than one (1), then the monthly basic facility charge may be obtained by multiplying the equivalency rating by the basic facility charge of \$7.50.

When, because of the method of water line installation utilized by the developer or owner, it is impractical to meter each unit separately, service will be provided through a single meter. Consumption of all units served through such meter will be averaged; a bill will be calculated based on that average plus the addition of the basic

facility charge per unit and the result multiplied by the number of units served by a single meter.

2. NON RECURRING CHARGES

- | | | |
|----|---|--|
| a. | Tap fee (which includes a water service connection charge and capacity fee) | \$600.00 per single - family equivalent unit *** |
|----|---|--|

The non recurring charges listed above are minimum charges and apply even if the equivalency is less than one. If the equivalency rating is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for and/or initial connection to the water system is requested.

(***Unless prohibited by contract approved by South Carolina Public Service Commission.)

3. RECONNECTION AND ACCOUNT SET-UP CHARGES

- | | | |
|----|---|---------|
| a. | Water reconnection fee | \$40.00 |
| b. | Customer account charges
(One-time fee to be charged to each new account to defray cost of initiating service) | \$30.00 |

4. OTHER SERVICES

Fire Hydrant - One Hundred (\$100.00) per hydrant per year for water service payable in advance. Any water used should be metered and the commodity charge in Section One (1) or Two (2) above will apply to such usage.

II. SEWER

1. MONTHLY CHARGES

- a. Residential - Monthly Charge \$30.09
per single-family house,
condominium, villa, or
apartment unit
- b. Commercial - Monthly Charge \$30.09
per single-family equivalent
- c. The monthly charges listed above are minimum charges and shall apply even if the equivalency is less than one (1). If the equivalency is greater than one (1), then the monthly charges may be calculated by multiplying the equivalency rating by the monthly charge of \$30.09.

2. NON RECURRING CHARGES

- a. Tap fees (which includes sewer service connection charges and capacity charges) \$1,200.00 per single - family equivalent unit ***
- b. The non recurring charges listed above are minimum charges and apply even if the equivalency rating of a non residential customer is less than one (1). If the equivalency rating is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the sewer system is requested.

(***Unless prohibited by contract approved by South Carolina Public Service Commission.)

3. NOTIFICATION, ACCOUNT SET-UP AND RECONNECTION CHARGES

- a. Notification Fee: A fee of \$15.00 shall be charged each customer to whom the Utility mails the notice as required by Commission Rule R.103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating the cost.
- b. Customer Account Charge: A fee of \$20.00 shall be charged as a one-time fee to defray the costs of initiating service. This charge will be waived if the customer is also a water customer.
- c. Reconnection Charges: In addition to any other charges that may be due, a reconnection fee of \$250.00 shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule

R.103-532.4. The amount of the reconnection fee shall be in accordance with R.103-532.4 and shall be changed to conform with said rule, as the rule is amended from time to time.

III. GENERAL PROVISIONS

1. BILLING CYCLE

Recurring charges will be billed monthly or bi-monthly in arrears. Non recurring charges may be billed and collected in advance of service being provided.

2. LATE PAYMENT CHARGES

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half percent (1 2%) for each month (or any part of a month) that said payment remains unpaid.

3. TAX MULTIPLIER

Except as otherwise provided by contract approved by the South Carolina Public Service Commission, amounts paid or transferred to the Utility by customers, builders, developers or others, either in the form of cash or property, shall be increased by a cash payment in an amount equal to the income taxes owed on the cash or property transferred to the utility by customers, builders, developers, or others, and properly classified as a contribution or advance in aid of construction in accordance with the uniform system of accounts. Included in this classification are tap fees.

4. TOXIC AND PRETREATMENT EFFLUENT GUIDELINES

The Utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR 403.5 and 403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

5. LANDLORD/TENANT RELATIONSHIP

In the case of landlord/tenant relationship where the tenant is the customer, the Utility may require the landlord to execute an agreement wherein such landlord agrees to be responsible for all charges billed to the premises in accordance with the approved tariffs and the Rules of the Commission, and said account shall be considered the landlord's and tenant's account. In the event the landlord refuses to execute such an agreement, the Utility may not discontinue service to the premises unless and until the tenant becomes delinquent on his account or until the premises are vacated. The Utility may discontinue service pursuant to R.103.535.1 if the account is delinquent or may discontinue service at the time the premises are vacated, and the Utility shall not be required to furnish service thereafter to the premises until the landlord has executed the agreement, and paid the reconnection charges.

6. CONSTRUCTION STANDARDS

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed in constructing parts of the water or sewer systems.

7. SINGLE FAMILY EQUIVALENT

The list set forth below establishes the minimum equivalency rating for commercial customers applying for or receiving sewer service from the Utility. Where the Utility has reason to suspect that a person or entity is exceeding design loading established by the South Carolina Pollution Control Authority in a publication called "Guidelines for Unit Contributory Loading to Wastewater Treatment Facilities" (1972), as may be amended from time to time or as may be set forth in any successor publication, the Utility shall have the right to request and receive water usage records from the provider of water to such person or entity. Also, the Utility shall have the right to conduct an "on premises" inspection of the customer's premises. If it is determined that the actual flows or loadings are greater than the design flows or loadings, then the Utility shall recalculate the customer's equivalency rating based on actual flows or loadings and thereafter bill for its service in accordance with such recalculated loading.

<u>TYPE OF ESTABLISHMENT</u>		<u>EQUIVALENCY RATING</u>
1.	Airport	
	(a) Each Employee .....	.025
	(b) Each Passenger .....	.0125
2.	Apartments	1.0
3.	Bars	
	(a) Each Employee .....	.025
	(b) Each Seat (Excluding Restaurant) .....	.1
4.	Boarding House (Per Resident) .....	.125
5.	Bowling Alley	
	(a) Per Lane (No Restaurant) .....	.3125
	(b) Additional for Bars and Cocktail Lounges (Per Seat or Person) .....	.0075
6.	Camps	
	(a) Resort (Luxury) (Per Person) .....	.25
	(b) Summer (Per Person) .....	.125
	(c) Day (With Central Bathhouse) (Per Person) .....	.0875
	(d) Per Travel Trailer Site .....	.4375
7.	Churches	(Per Seat)

APPENDIX A - TEGA CAY WATER SERVICE, INC.

DOCKET NO. 96-137-W/S - ORDER NO. 1999-191

Page 7

8.	Clinics	
	(a) Per Staff.....	.0375
	(b) Per Patient .....	.0125
9.	Country Club (Each Member).....	.125
10.	Factories	
	(a) Each Employee (No Showers).....	.0625
	(b) Each Employee (With Showers) .....	.0875
	(c) Each Employee (With Kitchen Facilities).....	.1
11.	Fairgrounds (Per Person Based on Average Attendance).....	.0125
12.	Food Service Operations	
	(a) Ordinary Restaurant (Up to 12 Hours) (Per Seat) .....	.175
	(b) Over 12 Hour Restaurant (Per Seat).....	.25
	(c) Curb Service (Drive in) (Per Seat) .....	.25
	(d) Vending Machine Restaurant (Per Person) .....	.175
13.	Hospitals	
	(a) Per Bed .....	.5
	(b) Per Resident Staff.....	.25
14.	Hotels (Per Bedroom - No Restaurant).....	.25
15.	Institutions (Per Resident).....	.25
16.	Laundries (Self Service - Per Machine).....	1.0
17.	Mobile Homes.....	1.0
18.	Motels (Per Unit - No Restaurant) .....	.25
19.	Nursing Homes	
	(a) Per Bed (No Laundry) .....	.25
	(b) Per Bed (With Laundry).....	.375
20.	Offices (Per Person - No Restaurant).....	.0625
21.	Picnic Parks (Average Daily Attendance) (Per Person).....	.025
22.	Residences (Single Family)	1.0

APPENDIX A - TEGA CAY WATER SERVICE, INC.

DOCKET NO. 96-137-W/S - ORDER NO. 1999-191

Page 8

23.	Rest Homes	
	(a) Per Bed (No Laundry) .....	.25
	(b) Per Bed (with Laundry).....	.375
24.	Schools	
	(a) Per Person (No Showers, Gym, Cafeteria) .....	.025
	(b) Per Person With Cafeteria (No Gym, Shower) .....	.0375
	(c) Per Person With Cafeteria, Gym & Shower .....	.05
25.	Service Stations	
	(a) Each Car Served (Per Day).....	.025
	(b) Each Car Washed (Per Day).....	.1875
	(c) First Bay	2.5
	(d) Each Additional Bay	1.25
26.	Shopping Centers (Per 1,000 sq. ft. Space - No Restaurants).....	.5
27.	Stadiums (Per Seat - No Restaurants).....	.005
28.	Swimming Pools (Per Person - With Sanitary Facilities and Showers) .	.025
29.	Theatres	
	(a) Drive in (Per Stall).....	.0125
	(b) Indoor (Per Seat) .....	.0125